

REMARKS

Applicant is in receipt of the Office Action mailed July 25, 2008. No claims were amended, added, or cancelled. Therefore, claims 4, 5, 24, 25, and 72-97 remain pending in this case. Reconsideration of the present case is earnestly requested in light of the following remarks.

103 Rejection

Claims 4, 5, 24, 25, and 72-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,209,033 to Datta in view of U.S. Patent No. 6,744,767 to Chiu. Applicant respectfully disagrees.

Claim 4

Claim 4 is distinguished over Datta and Chiu, taken singly or in combination, because the cited references do not teach or suggest various elements of claim 4. The Office Action addresses Applicant's last Response filed 4/30/2008, but it misses the substance of Applicant's arguments. *See* Office Action at 2-3.

The Office Action again alleges that Chiu and Datta teach a "media aggregation manager." *Id.* at 2 (paragraph 2) and 4. Applicant respectfully disagrees. The Office Action does not show what passages or element(s) of Datta and/or Chiu teach the "media aggregation manager" of claim 4, besides making a statement that Chiu is a reservation system for bandwidth. *Id.* at 2. However, claim 4 does not simply recite a "reservation system for bandwidth," but rather "media aggregation managers" that "are capable of serving as reservation session aggregation points on behalf of a first user community and a second user community, respectively," where "the first user community and the second user community" are "coupled by a plurality of physical paths." Thus each "media aggregation manager" is capable of serving as a "reservation session aggregation point" for each respective "user community." Applicant fails to see where Chiu and Datta teach the abovementioned claimed elements.

The Office Action also alleges that the cited art teaches displaying "second graphical representations for allocating and/or deallocating bandwidth between the first media aggregation manager and the second media aggregation manager," by citing

element 52 of Figure 5 of Datta. *Id.* at 2 (paragraph 3) and 4. However, element 52 is merely an “area 52 for model type information.” *See* Datta at 6:8-15. Applicant notes that Figure 5 displays information for a “device” of Datta, which can be a “computer device.” *Id.* at 4:44-48. However, nowhere does Datta teach or describe displaying a “media aggregation manager” capable of serving as “reservation session aggregation point” for each respective “user community” of claim 4.

The Office Action again alleges that Chiu and Datta teach “displaying graphical representations” because “results of a simulation must be presented to the user in some form in order to be analyzed,” giving a reason that “else there is no point in running the simulation.” *Id.* at 2 (paragraph 4) and 4. Applicant respectfully disagrees as the Office Action confuses the meaning of the first and the second graphical representations of claim 4. The first graphical representations of claim 4 display the first and the second media aggregation managers, and Chiu and Datta’s failure to disclose displaying these elements is discussed above. The second graphical representations of claim 4 allow allocating and/or deallocating bandwidth between the first and the second media aggregation managers. Thus neither the first nor the second graphical representations of claim 4 are directed to displaying results of a simulation as alleged by the Office Action.

Furthermore, the Office Action alleges that “suggestions of two prior art references” can be “supplemented ... with common sense” provides motivation to reinforce the combination. *See* Office Action at 2-3. However, as argued below, Datta clearly states that his system is able to “overcome such limitations,” i.e., that “an embodiment of the invention performs CEP on a network.” *See* Datta at 6:46-48. Furthermore in the cited portions Chiu merely teaches how to use the three classes of network services (*See* Chiu at 3:24-52), and specifically how “assured packets obtain higher priority handling than Basic packets during periods of congestion.” *See* Chiu at 4:1-4. Thus the cited portions do not teach anything other than Datta solving its own CEP monitoring problems and Chiu being able to redistribute its highest priority packets.

Modified arguments presented in Applicant's last Response of 4/30/08 are repeated below to more fully address arguments presented by the Examiner in the latest Office Action.

As mentioned in the prior Response to Office Action filed on 4/30/08, neither Datta nor Chiu teach or suggest at least the "media aggregation managers" of claim 4 (the Office Action also does not address the "media aggregation managers" of claim 4). Claim 4 recites "media aggregation managers" being "capable of serving as reservation aggregation points on behalf of a first user community and a second user community." The Office Action states that "Datta failed to disclose performing these functions with respect to the reservation and allocation of bandwidth." *See* Office Action at 4. In fact neither Datta nor Chiu teach or suggest "media aggregation managers" at all.

The Office Action asserts that Chiu discloses a "reservation system for bandwidth and buffer resources at each router in a path and along alternative paths in case of failure." *Id.* Applicant disagrees and notes that Chiu teaches a system for "providing Quality of Service to Internet Protocol networks based on a three-class differentiated service scheme where the service provider uses a resource management system and a schedule optimizer to enable the optimal use of bandwidth and buffer resources at each node or router along the various links between the ingress and egress points in a network." *See* Chiu Abstract. Chiu teaches that the resource reservation system "checks to determine if sufficient bandwidth resources are available along the path requested by the customer for a particular class." *See* Chiu Abstract.

However, the cited portions of Chiu merely disclose that the "bandwidth allocation device (52) is capable of allocating and reserving sufficient bandwidth according to a preselected scheme corresponding to service classifications." *See* Chiu at 5:48-52. Thus Chiu teaches away from the element of claim 4 of "displaying second graphical representations for allocating and/or deallocating bandwidth between the first media aggregation manager and second media aggregation manager." Furthermore, even if Datta and/or Chiu taught "media aggregation managers" of claim 4, which Applicant asserts they do not, neither Datta nor Chiu teach or suggest, nor the Office Action asserts that either one teaches or suggests "displaying first graphical representations representing the first media aggregation manager and the second media aggregation manager." *See*

Office Action at p. 2 and 4. Thus these elements of claim 4 are distinguished over the cited art.

Furthermore, Applicant respectfully submits that the Office Action does not provide a proper reason to combine the references of Datta and Chiu. Appellant also submits that no proper motivation to combine has been provided by the references. The suggested motivation to combine Datta with Chiu is “by discussing a need to monitor current network characteristics, and applying plans on a short term basis to provide timely communication services” citing Datta at 6:22-32. *See* Office Action at p. 2 and 4. However, the Office Action simply rephrases a need disclosed in Datta and does not show a need for “reservation and allocation of bandwidth” of claim 4. In fact, the solution for the above problem was provided by Datta in text following the cited alleged need for combining – “to overcome such limitations, an embodiment of the invention performs CEP on a network based upon the traffic volume across the links of the network.” *See* Datta at 6:46-49. Thus Datta does not provide motivation to combine because it clearly states that any problems it has are fixed by the solution provided within the Datta patent.

As the Examiner is certainly aware, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular... broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The Office Action does not provide any analysis or reasons for obviousness under the KSR standard either. *KSR Int'l v. Teleflex, Inc.*, 550 U.S. ____ (2007). Thus, the combination is not available for making a prima facie case of obviousness. Furthermore, even if the references were combinable, the resulting combination would still not produce Applicant’s invention as claimed, as argued above. Applicant addresses the latest arguments regarding obviousness above.

Therefore Datta and Chiu, taken singly or in combination, do not teach or suggest at least the elements of “displaying first graphical representations of the first media aggregation manager and the second media aggregation manager,” “the first and second media aggregation managers capable of serving as reservation session aggregation points,” and “displaying second graphical representations for allocating and/or

deallocating bandwidth between the first media aggregation manager and second media aggregation manager.” Thus, Applicant respectfully submits that Datta and Chiu fail to disclose all the features and limitations of claim 4, and so, for at least the reasons provided above, Applicant submits that claim 4 is patentably distinct and non-obvious over Datta and Chiu, and thus allowable.

Similar arguments apply with equal force to the 35 U.S.C. 103(a) rejection of claims 24, 76, 80, 84, and 93. Thus, Applicant respectfully submits that claims 4, 24, 76, 80, 84, and 93, and their dependent claims are patentably distinct and non-obvious over Datta and Chiu and are thus allowable for at least these reasons.

Therefore removal of the section §103 rejection of claims 4, 5, 24, 25, and 72-97 is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/6057-44001/JCH.

Also filed herewith are the following items:

- ☒ Request for Continued Examination
- ☐ Terminal Disclaimer
- ☐ Power of Attorney By Assignee and Revocation of Previous Powers
- ☐ Notice of Change of Address
- ☒ Information Disclosure Statement

Respectfully submitted,

/Jeffrey C. Hood/

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